

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CURTIS McDANIEL,

Plaintiff,

-against-

THE PEOPLE OF THE STATE OF NEW YORK, et
al,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 10/15/2021

1:19-CV-7680 (AJN) (KHP)

ORDER

CURTIS McDANIEL,

Plaintiff,

-against-

NYC FIRE DEPARTMENT, NYC POLICE
DEPARTMENT, JOHN and JANE DOES 1-7,
CITY OF NEW YORK,

Defendants.

KATHARINE H. PARKER, United States Magistrate Judge:

Plaintiff was permitted to file a corrected Third Amended Complaint, which the Plaintiff named “4th Amended Complaint.” (ECF No. 78.) This will be the operative complaint. No further amendments will be permitted.

The Fourth Amended Complaint included the following defendants: Nicholas Evangelista, Julian Febres, Christopher Bobell, William Kelly, Edwin Sanchez, Steven Rathjen, Rosanna Espinal, Judy Biondolillo, John Doe, New York City Police Department, and the New York City Fire Department.

The following addresses were provided for purposes of service of process:

Police Officer Nicholas Evangelista, Retired
New York City Police Department
1 Police Plaza
New York, NY 10007

Police Officer Julian Febres, Shield No. 21740
New York City Police Department
23rd Precinct
162 East 102nd Street
New York, NY 10029

Police Officer Christopher Bobell, Shield No. 9032
New York City Police Department
23rd Precinct
162 East 102nd Street
New York, NY 10029

Sergeant William Kelly, Shield No. 3073
New York City Police Department
23rd Precinct
162 East 102nd Street
New York, NY 10029

Police Officer Edwin Sanchez, Shield No. 11957
New York City Police Department
23rd Precinct
162 East 102nd Street
New York, NY 10029

Police Officer Steven Rathjen, Retired
New York City Police Department
One Police Plaza
New York, NY 10038

Police Officer Rosanna Espinal, Shield No. 23019
New York City Police Department
23rd Precinct
162 East 102nd Street
New York, NY 10029

Sergeant Judy Biondolillo, Shield No. 3229
New York City Police Department

Housing Bureau P.S.A. #5
221 East 123rd Street
New York, NY 10035

Because Plaintiff has been granted permission to proceed *in forma pauperis* (“IFP”), he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the Court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP). Accordingly, the Clerk of Court is respectfully requested to issue a summons as to the above-listed Defendants, and the Marshalls are directed to serve the Fourth Amended Complaint on the above-listed Defendants within 90 days.

As indicated in the Court’s prior order at ECF No. 76, the Plaintiff did not include the following Defendants in the Fourth Amended Complaint: The People of the State of New York, Judge Charlotte E. Davidson, Judge A. Drysdale, A.D.A. Breen Lauren, Judge Ann D. Thompson, and John Doe Warden. Therefore, the Court presumes that Plaintiff is not pursuing claims against them.

CONCLUSION

To allow Plaintiff to effect service on all Defendants through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each of the Defendants for whom an address was provided above. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these Defendants.

The Clerk of Court is respectfully requested to terminate the following Defendants as parties: The People of the State of New York, Judge Charlotte E. Davidson, Judge A. Drysdale, A.D.A. Breen Lauren, Judge Ann D. Thompson, and John Doe Warden.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so. The Clerk of Court is directed to mail a copy of this order to Plaintiff.

SO ORDERED.

Dated: October 15, 2021
New York, New York



KATHARINE H. PARKER
United States Magistrate Judge

The Clerk of Court is requested to mail a copy

of this order to:

**Curtis McDaniel
DIN # 20-A-0242
Bare Hill Correctional Facility
Caller Box 20
181 Brand Road
Malone, NY 12953**